



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No.: 08 CR 2252 BTM
Plaintiff,) ORDER
vs.)
MIRZA ALVAREZ ESTRADA,)
JORGE CAMACHO ANZURES,)
Defendants.)

ORDER

1. Upon request of material witnesses JOB RODRIGUEZ RAMIREZ, VICTOR PEREZ CHAVEZ, and ERASMO MALDENADO RIOS (hereafter "Material Witnesses"), and their counsel Wayne C. Mayer, and GOOD CAUSE APPEARING:

2. The MATERIAL WITNESSES in the case of USA v. MIRZA ALVAREZ ESTRADA and

JORGE CAMACHO ANZURES case number 08 CR 2252 BTM shall be deposed on August

15, 2008 at 9 AM a.m./p.m. The deposition will take place in office of the United States Attorney located at 880 Front Street, Fifth Floor, San Diego California. All parties,

- 1 meaning the United States and the defendants, shall attend the material witnesses deposition.
- 2 The arresting agency shall bring the material witnesses to the deposition. If, in custody, the
- 3 defendants shall be brought separately to the deposition and a marshal or agent from the
- 4 arresting agency shall remain present during the entire proceeding.
- 5 3. The United States Attorney's Office shall provide a videotape operator ("operator") and, if
- 6 necessary, arrange for a court-certified interpreter in the witnesses native language to be
- 7 present for the Material Witness(es). The cost of the interpreter for the material witnesses shall
- 8 be borne by the United States Attorney's office.
- 9 4. If the defendants need an interpreter other than the interpreter for the material witnesses (if
- 10 any), then defense counsel will arrange for a court-certified interpreter to be present. The cost
- 11 of a separate interpreter for the defendant(s) shall be paid by the Court.
- 12 5. The United States Attorney's Office shall arrange for a certified court reporter to be present.
- 13 The court reporter shall stenographically record the testimony and serve as a notary and
- 14 preside at the deposition in accordance with Rule 28(a), Federal Rules of Civil Procedure.
- 15 The cost of the court reporter shall be borne by the United States Attorney's Office.
- 16 6. The deposition shall be videotaped, meaning a magnetic tape that records sound as well as
- 17 visual images. At the conclusion of the deposition, on the record, the witness(es) or any party
- 18 may elect to have the witness(es) review the videotape record of the deposition to check for
- 19 errors or omissions and to note any changes. Any errors, omissions or changes, and the
- 20 reasons for making them, shall be stated in writing, signed by the witness(es), delivered to the
- 21 notary in a sealed envelope and filed in the same fashion as described in Paragraph 17 below,
- 22 unless the parties agree on the record to a different procedure.
- 23 7. The operator shall select and supply all equipment required to videotape the deposition and
- 24 shall determine all matters of staging and technique, such as number and placement of cameras
- 25 and microphones, lighting, camera angle, and background. The operator shall determine these
- matters in a manner that accurately reproduces the appearance of the witness(es) and assures

1 clear reproduction of both the witness' testimony and the statements of counsel. The
2 witness(es), or any party to the action, may object on the record to the manner in which the
3 operator handles any of these matters. Any objections shall be considered by the Court in
4 ruling on the admissibility of the videotape record. All such objections shall be deemed
5 waived unless made promptly after the objector knows, or had reasonable grounds to know, of
6 the basis for such objections.

7 8. The deposition shall be recorded in a fair, impartial, objective manner. The videotape
8 equipment shall be focused on the witness(es); however, the operator may when necessary or
9 appropriate, focus upon charts, photographs, exhibits or like material being shown to the
10 witness(es).

11 9. Before examination of the witness(es), the Assistant United States Attorney shall state on the
12 video record: his/her name; the date, time and place of the deposition; the name of the
13 witness(es); the identity of the parties and the names of all persons present in the deposition
14 room. The court reporter shall then swear the witness on the record. Prior to any counsel
15 beginning an examination of the witness(es), that counsel shall identify himself/herself and
16 his/her respective client.

17 10. Once the deposition begins, the operator shall not stop the videotape recorder until the
18 deposition concludes, except that, any party or the witness(es) may request a brief recess,
19 which request will be honored unless a party objects and specifies a good faith basis for the
20 objection on the record. Each time the tape is stopped or started, the operator shall state on the
21 record the time the recording stopped and the time it resumed. If the deposition requires the
22 use of more than one tape, the operator shall sequentially identify on the record the end and
23 beginning of each tape.

24 11. All objections both as to form and substance shall be recorded as if the objection had been
25 overruled. The Court shall rule on the objections at the appropriate time. The party raising the
objection(s) shall prepare a transcript for the Court to consider. All objections shall be deemed
waived unless made during the deposition.

- 1 12. The Party offering the deposition into evidence at trial shall provide the Court with a transcript
2 of the portions so offered.
- 3 13. Copies of all exhibits utilized during the videotaped deposition shall be marked for
4 identification during the deposition and attached to the videotaped record.
- 5 14. At the conclusion of the deposition, any objection, including the basis, to the release the
6 material witness(es) from custody shall be stated on the record. If there is no objection, the
7 attorney for the material witness(es) shall immediately serve all parties with a "Stipulation and
8 Proposed Order for Release of the Material Witness(es)" and submit the Order to the Clerk of
9 the Court for the Judge's signature. Prior to release from custody the attorney for the
10 Government shall serve the material witness(es) with a subpoena for the trial date and a travel
11 fund advance letter.
- 12 15. The operator shall provide a copy of the videotaped deposition to any party who requests a
13 copy at that party's expense. After preparing the requested copies, if any, the operator shall
14 deliver the original videotape to the notary along with a certificate signed by the operator
15 attesting that the videotape is an accurate and complete recording of the deposition. The notary
16 shall file the original tape and certification with the Clerk of the Court in a sealed envelope
17 marked with the caption of the case, the name of the witness(es) and the date of the deposition.
- 18 16. The notary shall file with the Clerk of the Court in a sealed envelope the original videotape,
19 along with any exhibits offered during the deposition. The sealed envelope shall be marked
20 with the caption of the case, the name of the witness(es), and the date of the deposition. To
21 that envelope, the notary shall attach the certificate of the operator. If all counsel stipulate on
22 the record, the Government may maintain the original videotape until production is ordered by
23 the Court or requested by any party.
- 24 17. If any party objects on the record to the release of the material witness(es) from custody, the
25 objecting party must request in writing a hearing on the issue before the federal judge who is
assigned the case or to such other district judge or magistrate judge as they designate. Notice
of the request for Hearing must be served on all parties and filed with the Clerk of the Court

1 within twenty-four (24) hours after the completion of the deposition, with a courtesy copy to
2 chambers.

3 18. The court shall set a briefing schedule, if appropriate, and a date and time for the objection to
4 be heard as soon as reasonably practicable. At the hearing, the objecting party must establish
5 to the Court's satisfaction an appropriate legal basis for the material witness (es) to remain in
6 custody. If, after the hearing, the Court orders the release of the material witness (es), the
7 material witness (es)' attorney shall immediately present the release order to the Court for
8 signature and filing. Before release of the material witness (es) from custody the Government
9 shall serve the material witness (es) with a subpoena for the trial date and a travel fund advance
10 letter.

11 19. Upon request by either party, the videotape operator shall provide a copy of the videotaped
12 deposition to the requesting party at the requesting party's expense. After preparing the
13 requested copies, if any, the videotape operator shall turn the original videotape over to the
14 notary along with a certificate signed by the videotape operator attesting that the videotape is
15 an accurate and complete record of the recorded deposition.

16 20. The videographer shall file the original videotape, along with any exhibits offered during the
17 deposition, with the Court in a sealed envelope marked with the caption of the case, the name
18 of the witness and the date of the deposition. To that envelope, the notary shall attach the
19 sworn statement that the videotape is an accurate and complete record of the recorded
20 deposition and a certification that the officer duly swore the witness.

21 21. To the extent that the procedures set forth herein for videotaping vary from those set forth in
22 Rules 28 and 30 F.R.Civ.P., these variations are found to be good cause shown as allowed by
23 F.R. Civ. P. 29.

24 **IT IS SO ORDERED.**

25 DATE: August 6, 2008


UNITED STATES DISTRICT COURT